RAJYA SABHA

Monday, the 9th December, 1985/18 *Agrahayana,* 1907 (*Saka*)

The House met at eleven of the clock, **Mr. Chairman** in the Chair.

ORAL ANSWERS TO QUESTIONS

Benches of the Supreme Court

*281. SHRI ASHWANI KUMAR:†
SHRI S. W. DHABE:

Will the Minister of LAW AND JUSTICE be pleased to state:

(a) what progress has so far been made in the formation of benches of the Supreme Court in various parts of the country as provided in the Constitution;

(b) how many proposals have been received so far by Government or the Chief Justice of India for formation of Supreme Court benches and from whom and when; and

(c) what are the reasons for not taking a decision on this important issue so far when decentralisation of the highest judiciary is necessary for making justice cheap and easily available to the common people?

THE MINISTER OF STATE IN THE MINISTRY OF LAW AND JUSTICE (SHRI H. R. BHARDWAJ): (a) to (c) Details of the representations received by the Government of India and the Chief Justice of India for establishment of Benches of the Supreme Court away from its principal seat are contained in statements I and II respectively which are laid on the Table of the House. (*See* below)

According to Article 130 of the Constitution, "the Supreme Court shall set in Delhi or in such other place or places as the Chief Justice of India may, with the approval of the President, from time to time, appoint."

No proposal has been received from the Chief Justice of India in this regard.

Statement I

Representation received by the Government of India for establishment of Benches of the Supreme Court

Sl. No.	Received from	Date of representation	place Suggested for establishment of Bench
1	2	3	4
A.	State Government		
1	Government of Tamil Nadu . . .	1-4-1980	Mardras
2	Government of Andhara Pradesh . . .	27-4-1981	Hyderabed
3	Goverament of Karnataka . . .	3-7-1982	Bangalore
4	Government of Tripura . . .	9-8-1983	Calcutta
B.	Others		
1	High Court Bar Association, Allahabed .	4-4-1973	Allahabad
2	Andhra Pradesh High Court Advocates Association	4-10-1978	Hyderabad
3	The Nizamabad Bar Association (Andhra Pradesh)	15-11-1978	Hyderabad

†The Question was actually asked on the floor of the House by Shri Ashwani Kumar.

1	2	3	4
4	Bar Association, Palghat, (Resolution) (Kerala)	9-2-1979	South India preferably at Madras or Bangalore
5	Kerala Bar Federation (Resolution) . .	6-4-1979	South India preferably Bangalore
6	Telugu Praja Samiti (Vijayawada) . . .	22-5-1981	Hyderabad
7	Manav Seva Sangh (Andhra Pradesh) . .	20-6-1981	Hyderabad
8	Kurnataka State Bar Council (Resolution) .	17-8-1981	Bangalore
9	The Advocates Association, Bangalore (Resolution)	27-8-1981	Bangalore
10	Bar Association, Bhopal . . .	1-9-1981	Bhopal
11	Bar Council of the State of Andhra Pradesh (Resolution)	23-9-1981	Hyderabad
12	All India Association of Democratic Lawyers (Andhra Pradesh)	23-9-1981	Hyderabad
13	Students Union Post Graduate College of Law, Osmania University, Hyderabad	6-10-1981	Hyderabad
14	Peoples Union for Civil Liberties (Kerala Unit)	10-10-1981	Madras Bangalore
15	Bar Council of Maharashtra . . .	6-11-1981	South India
16	The Advocates' Association, Madras . .	19-1-1982	Madras
17	The Bar Association Eraniel (Kerala) . .	20-1-1982	Madras
18	Bar Association, Usilampatty . . .	30-1-1982	Madras
19	Bar Association, Manapparai . . .	31-1-1982	Madras
20	Thanjavur Bar Association	9-2-1982	Madras
21	Bar Association, Tiruttani	27-2-1982	Madas
22	Bar Council of Kerala	23-3-1982	South India preferably at Trivandrum
23	Bar Council of Tamil Nadu	12-4-1982	Madras
24	Vidarbha Vikas Mandal Sangrash Samiti .	13-5-1983	Nagpur
25	Bar Council of West Bengal (Resolution) .	15-6-1983	Calcutta
26	The Advocates' Association of Western India, Bombay (Resolution)	1?-7-1983	South India
27	Bombay Incorporated Law Society . .	2-7-1983	South India
28	The Kumbakonam Chamber of Commerce .	26-6-1984	Madras
29	Thanjavur District Small Scale Industries, Association, Kumbakonam	7-8-1984	Madras

Statement—II

Representations received by the Chief Justice of India for Establishment of Benches of the Supreme Court

Sl. No.	Received from	Date of representation	Place suggested for establishment of Bench
A. State Governments :			
1	Chief Minister, Tamil Nadu . . .	16-2-1981 24-9-1981	Madras
2	Chief Minister, Andhra Pradesh . . .	27-4-1981 19-9-1981	Hyderobad
3	Chief Minister, Tripura	9-8-1983	Calcutta
4	Chief Minister, West Bengal . . .	30-4-1984	Calcutta
B. *Others :*			
1.	The Advocates' Association, Bangalore . .	4-9-1981	Bangalore
2.	Bombay Incorporated Law Society . .	20-7-1984	South India
3.	Shri S.W. Dhabe, M.P., President Vidarbha Vikas Mandal Sangarsha Samiti	21-7-1983	Nagpur

श्री अश्विनी कुमार : सभापति महोदय, सरकार ने भी कहा है कि न्याय सब लोगों को डोर-स्टेप पर मिल जाना चाहिये। आज जो केन्द्रीयकरण हो रहा है सारा दिल्ली के अन्दर और जिस प्रकार के रिप्रेजेंटेशन आये हैं क्या सरकार इसको होरीजोंटल बना कर के देश के विभिन्न भागों में पूर्व, पश्चिम उत्तर और दक्षिण में सुप्रीम कोर्ट के बेंच बनाने के ऊपर विचार करेगी जिससे कि सुप्रीम कोर्ट में जो लोग देश के कोने कोने से आते हैं उनको कम खर्च में सुविधापूर्वक न्याय मिल सके। आपने भी जो सदन के पटल के ऊपर पत्र रखा है उसमें कई स्थानों से इस प्रकार के आवेदन आये हैं तो क्या सरकार इन के ऊपर विचार करेगी जैसे कि पूर्व समय में स्वतंत्रता के पूर्व चार हाई कोर्ट थे जो कि सीधे बनाये गये थे मद्रास, कलकत्ता, बम्बई और इलाहाबाद। इसी प्रकार से देश के अन्य भागों में सुप्रीम कोर्ट के बेंच बनाने के बारे में क्या सरकार विचार करेगी ?

श्री हंसराज भारद्वाज : सभापति महोदय, मैंने निवेदन किया कि आर्टिकल 130 में चीफ जस्टिस आफ इण्डिया यह रिकमेंड करते है कि सुप्रीम कोर्ट कहां बैठे दिल्ली में बैठेगी और उसके अतिरिक्त अगर दूसरी जगह जहां भी सुप्रीम की सीट यदि जाना है तो उसके लिये इनिशियेटिव चीफ जस्टिस आफ इण्डिया से आना जरुरी है। गवर्नमेंट अपने आप ऐसा कोई निर्णय नहीं कर सकती है।

श्री अश्विनी कुमार : अध्यक्ष महोदय, अभी ला कमीशन ने अपनी 95वी रिपोर्ट लोकसभा के सामने रखी है जिसमें यह विचार रखा है कि कांस्टीट्यशनल डिवीजन और लीगल डिवीजन सुप्रीम कोर्ट का किया जाये और उसने इस विचार को देते हुये यह भी कहा है कि —

"The Federal Court was created under the Government of India Act of 1935. While primarily it was concerned with

constitutional issues, its jurisdiction, in course of time, came to be expanded because of political necessity."

मैं मंत्री जी से यह जानना चाहता हूं कि [illegible] प्रकार से कांरडं [illegible] डिवीजन करने के बारे में कुछ सोच रही है ?

श्री हंसराज भारद्वाज : श्री[illegible] कर [illegible] किया कि चीफ जस्टिस आफ इण्डिया इस बात को चाहते हैं तो सरकार इस पर गौर कर सकती है। चीफ जस्टिस आफ इण्डिया की रिकमेंडेशन के बगैर इस किस्म का विभाजन करना उचित नहीं है और न यह हो पाया है अभी तक तो चीफ जस्टिस आफ इण्डिया को मालूम है ला कमीशन की रिपोर्ट और इस में समय समय पर ला मिनिस्टर से चीफ जस्टिस आफ इण्डिया का पत्र-व्यवहार भी होता रहा है। अभी तक यह स्थिति तय नहीं हो पाई है कि सुप्रीम कोर्ट को इस ला कमीशन की रिपोर्ट के अनुसार डिवाइड कर दिया जाय। जहां तक सरकार का ताल्लुक है अगर चीफ जस्टिस आफ इण्डिया इस किस्म को कांस्टीट्यूशनल बेंच बनाना चाहेंगे तो सरकार [illegible] स्वागत करेगी।

SHRI S. W. DHABE: Sir, in the list which has been given, item 24 relates to the demand made by the Vidarbha Vikas Mandal Sangrasha Samiti to establish a bench at Nagpur, of the Supreme Court, Nagpur is centrally situated. The representation was made on 23-4-83. It passed a Resolution demanding the same High Court and District Bar Association of Nagpur have passed also similar resolution. As you are already aware, Sir, I will briefly say that when Article 130 was discussed in the Constituent Assembly. members suggested that the Supreme Court may sit outside Delhi also and suggested some other places for the same. The Supreme Court is the costliest court in the world. In reply to Starred Question No. 269 in Rajya Sabha answered on 12th December 1983 it has been stated that various categories of matters pending in the Supreme Court as on 1-11-83 are 1,37,035 out of which special leave petitions (civil) are alone 18194, Civil Appeals are 27900 and Civil miscellaneous petitions are 58203. In addition to this, the Supreme Court has litigation relating to 'jhonpar-pattis' in Bombay. People have become more conscious of their rights, and...

MR. CHAIRMAN. Time up.

SHRI S. W. DHABE: I am asking the question. Not only that. I will like to invite the attention of the hon. Minister to the fact that the Government is not powerless. Under the Union List, Entry 77, it can certainly establish a bench at different places. May I know from the Minister, apart from the powers of the Chief Justice they have examined the legal position whether they have got powers to form benches, as they have benches of High Courts in various places? Secondly,

. . .

MR. CHAIRMAN: No secondly.

SHRI S. W. DHABE: I am finishing. Secondly. . .

MR. CHAIRMAN: Please sit down.

SHRI S. W. DHABE: One point only.

MR. CHAIRMAN. No. Mr. Dhabe, I will tell you. Please hear me. If I find that the answer of the Minister is not satisfactory, or it needs further clarification, I will give you another opportunity. Mr. Minister.

SHRI S. W. DHABE: I may not be given another opportunity. So...

MR. CHAIRMAN: You have taken three minutes already. No, please...

SHRI S. W. DHABE:*

MR. CHAIRMAN: It will not be recorded. Mr. Minister.

SHRI H. R. BHARDWAJ: It is true that from time to time the Government

*Not recorded.

and the Chief Justice have been receiving representations from various Bar Associations and Bar Councils and other representative bodies, including the Samiti. But, Sir, as pointed out, it is the absolute jurisdiction of the Chief Justice of India to decide about the sittings of the Supreme Court. So far as Entry 77 is concerned, Dhabeji will appreciate that this is a question of legislative competence. In the Union List, Entry 77 gives us the power and competence to legislate, and we have been legislating. But the question of sitting is not governed by that.

SHRI S. W. DHABE: I am not satisfied. I will ask another...

MR. CHAIRMAN: Right. Come in.

SHRI S. W. DHABE: Chief Justice Chandrachud, whom I met last time, was not in favour of this. But now I understand*

MR. CHAIRMAN: This intermission cannot go.

SHRI S. W. DHABE: May I know whether a letter has been received and whether they have re-thinking on the...

MR. CHAIRMAN: I will formulate the question. That is not the way in which it can be asked in this House, about one person saying and another person not saying. Is there any change in the opinion of the Chief Justice in this matter? (*Interruptions*)

SHRI S. W. DHABE: Thank you very much.

SHRI H. R. BHARDWAJ: I will give you three informations. One is that the Chief Justice in April 1982 discussed this, and the Chief Justice was not in favour. Thereafter, Sir, a letter has been received in January 1985 by my Minister, Mr. Asoke Kumar Sen, from Chief Justice Chandrachud. If the hon. Member wants to know about the contents of that letter. I would like to show to him. But I will briefly refer—because it has not been laid on the Table of the House—to what the Chief Justice says: Most of the Judges were opposed to the sittings of the Supreme Court being held outside Delhi. I mean, more or less there has been no change. So far as.* . . .

MR. CHAIRMAN: No, no. This sentence will not go on record. (*Interruptions*) You cannot say that.

SHRI S. W. DHABE: Sir, the Minister's statement may be recorded.

SHRI SURESH KALMADI: It has not happened in the history of Rajya Sabha that the Minister's statement has not been recorded.

MR. CHAIRMAN: Everybody is only a Member. Whether he is a Minister or a Member, he is only a Member in this House.

SHRI SHANKAR PRASAD MITRA: Sir, the new Chief Justice of India has recently stated in a speech on the Law Day" that the Supreme Court has, for all practical purposes, become a court for special leave petitions, interim injunctions and stay orders. If this is the view expressed by the new Chief Justice of India, in regard to litigation in the Supreme Court, will the hon. Minister at least try to persuade the new Chief Justice to agree to some Circuit Benches of the Supreme Court sitting in different parts of the country to dispose of these miscellaneous matters at least, particularly when a Supreme Court Judge was sent only the other day to Haryana to preside over a Lok Adalat in some village in Haryana?

SHRI H. R. BHARDWAJ: This is a suggestion which every one and I on behalf of the Government welcome. I assure Justice Mitra that I will get in touch with the Chief Justice and request him to agree to such a suggestion. But the rigidity of the Chief Justice on this matter is well known. So far as the visit of a Supreme Court Judge to Haryana is concerned, he is the Chairman of the Legal Aid Committee and he went because the Lok Adalat is a mechanism which the Chief Justice has himself suggested as an alternate measure to resolve

*Not recorded.

disputes. Justice Ranganath Mishra and —I also read in the newspapers—that certain cases should be resolved outside the court. This suggestion is most welcome and I can discuss it with the Chief Justice of India.

SHRI MADAN BHATIA: Mr. Chairman, Sir, more than 25 years ago, an eminent lawyer and the former Attorney General appeared in a case before a Bench of the Supreme Court and the Bench told him: "Mr. Daphtary, did not you advise your client not to file this special leave petition". His reply was: "My Lord, after what I have been witnessing in this hon. Court for quite a few years, I have ceased to give such advice because I do not know which way the cat will jump. My respectful submission, Sir, is that the Supreme Court today is reeling under the weight of such gamble litigation much of which is either frivolous or constitutionally and jurisdictionally unsustainable or should have never reached the precincts of the Supreme Court and my apprehension is ....

MR. CHAIRMAN: What is the relevance?

SHRI MADAN BHATIA: I am coming to that, Sir, "... that if the Benches of the Supreme Court are created in different parts of the country, there will be a spurt and thrust to such litigation in the Supreme Court." Since we cannot discuss this question in a vacuum, may I request the hon. Minister to furnish, if possible, this information to this hon. House: (No. 1) number of special leave petitions filed in the Supreme Court in the last 10 years, year-wise, State-wise and category-wise, i.e. civil and criminal and amongst civil, subject-wise, those relating to income-tax matters, industrial matters, rent matters, service matters, administrative matters, constitutional matters and land disputes; (No. 2) number of such special leave petitions which were dismissed; (No. 3) number of such writ petitions which were filed; (No. 4) number of such writ petitions which were dismissed; (No. 5) number of such appeals which were heard during the same period.

MR. CHAIRMAN: Time is up.

SHRI MADAN BHATIA: This is the last, Sir. No. 6 number of appeals which were dismissed. I can give this in writing to the hon. Minister.

MR. CHAIRMAN: You can give all this information in a letter to the hon. Member.

SHRI P. BABUL REDDY: Sir, the talk for establishing the Benches of the Supreme Court in a vast country like this has been in the air for a long time. The Bar Associations of Madras, Karnataka, Andhra Pradesh and various other places have passed resolutions. As against that, Sir, I understand, the Judges of the Supreme Court and the Bar Association of the Supreme Court passed resolutions against it. Sir, may I remind the hon. Minister that nobody can be a judge in his own cause because it is a whole some natural Justice principle? The Supreme Court Bar and the Supreme Court Judges are interested in continuing it in Delhi only. Sir, can the hon. Minister find out, particularly when the present Chief Justice is there who is very anxious to take justice to the doorstep of a poor tribal in the tribal areas, whether the Supreme Court be at least within 1,000 kms. of the poor man for whom you have got tears? Is the hon. Minister prepared to take some steps to amend the Constitution, if necessary, and arm the Government to take the Supreme Court, if not to the door-step but at least within 1,000 kms. of the poor man?

SHRI H. R. BHARDWAJ: Sir, I respect the sentiments of Shri Babul Reddy, a very senior colleague at the Bar. I agree that the Supreme Court must consider the difficulties of the litigant and the public at large. And that is why every Minister, much more me, and earlier Ministers who were themselves very senior members of the Bar have always been persuading the Supreme Court. Then the question is that the Supreme Court has not yet been persuaded to go ahead with having sittings elsewhere. And I assure the hon. Member that I will also get in touch with the present Chief Justice. He has been saying certain very progressive

views regarding taking justice to the door-steps. And if he agrees, there will be no difficulty in amending any law because ultimately law is there to serve the country and the people.

SHRI MURLIDHAR CHANDRAKANT BHANDARE: Mr. Chairman, Sir, this is not a question of either sentiments or emotions. It is a question of quality of justice. And it is regrettable that today the longest delay of ten years is in the highest court of the land, that is the Supreme Court. We have today a strength of 18. We have a Bill pending before us to raise it to 25...

SHRI H. R. BHARDWAJ: 26.

SHRI MURLIDHAR CHANDRAKANT BHANDARE: Yes, 26. With all that, how many Benches will it be possible to have or how many Judges will you accommodate on these Benches within these 26 so that these ten years will come at least to a reasonable period of five years? It is not a question of merely taking the justice to the door-step but keeping the quality which becomes the law of the land under article 141.

SHRI H. R. BHARDWAJ: Sir, the question of raising the strength of the Supreme Court was taken up by the Chief Justice Shri Chandrachud with the then Law Minister, and the analysis given was that out of 26, one Bench will be a Constitution Bench comprising of five Judges, another Bench for labour and service matters comprising of three Judges, another Bench for tax matters and excise and customs comprising of three Judges, two Benches of three Judges each for civil cases and election appeals—that comes to six Judges—another Bench for criminal cases comprising of three Judges, and another two Benches of three Judges each, *i.e.* six Judges, for only admission matters. So, the total comes to 26. And that is why, to implement this view of the Chief Justice of India, we had introduced the Bill in the Parliament. That has been passed in the Lok Sabha and that is a matter for consideration shortly before the Rajya Sabha also. So, this is the step taken in view of the direction of the Chief Justice of India. So far as the quality of Justice is concerned, Sir, I need not comment because the quality of justice remains the same because the judgments of the Supreme Court are even now of the same quality.

MR. CHAIRMAN: Question No. 282.

Import contents to Dexamethasone

*282. SHRI RAJNI RANJAN SAHU:
DR. JOSEPH LEON D'SOUZA:†

Will the Minister of INDUSTRY be pleased to state:

(a) whether it is a fact that import contents for the production of Dexamethasone and its salts by M/s. Marck Sharp & Dhome, are more than 80 per cent;

(b) if so, what were the import contents indicated by this company while submitting the data to the High Level Committee; and

(c) what is the present landed cost of import per kg. of Dexamethasone and its salts along with the price fixed by Government and their selling price of each per kg.?

THE MINISTER OF STATE IN THE DEPARTMENT OF CHEMICALS AND PETROCHEMICALS (SHRI R. K. JAICHANDRA SINGH): (a) to (c) A Statement is laid on the Table of the House.

Statement

(a) According to the information available, the import content in Dexamethasone pure produced by M/s. Merind (formerly M|s Merck Sharp & Dhome) is about 70 per cent of the c.i.f. price of Dexamethasone.

(b) According to the information furnished by the Company to the High Level Committee, in 1977-78, the import content in Dexamethasone pure produced by M/s. Merind was about 80-99 per cent of the c.i.f. price of Dexamethasone.

†The question was actually asked on the Floor of the House by Dr. Joseph Leon D'Souza.